

Virginia Administrative Code

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CHAPTER 330

RULES AND REGULATIONS FOR ENFORCEMENT OF THE VIRGINIA PEST LAW-VIRGINIA GYPSY MOTH QUARANTINE

2VAC5-330-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Associated equipment" means articles associated with mobile homes and recreational vehicles such as, but not limited to: awnings, tents, outdoor furniture, trailer blocks, LP gas containers and trailer skirts.

"Compliance agreement" means a written agreement between a person engaged in growing, handling, or moving regulated articles, and the VDACS, U.S. Department of Agriculture (USDA), or both, wherein the former agrees to comply with the requirements of the compliance agreement.

"Gypsy moth" means the insect "Lymantria dispar" (Linnaeus) in any living stage.

"Hazardous recreational vehicle site" means any site where a recreational vehicle is, or may be parked, which is determined by an inspector to harbor populations of gypsy moth that could be spread by movement of recreational vehicles or associated equipment.

"Inspector" means any employee of the Virginia Department of Agriculture and Consumer Services, or other person authorized by the commissioner to enforce the provisions of the quarantine and chapter.

"Mobile home" means any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

"Outdoor household articles" means articles associated with a household that have been kept outside the home, including but not limited to outdoor furniture, barbeque grills, building materials, children's play things, yard items, trash cans, dog houses, boats, hauling trailers, garden tools, tents, and awnings.

"Recreational vehicles" means highway vehicles, including pickup truck campers, one-piece motor homes, and camping or travel trailers, designed to serve as a temporary dwelling.

"Scientific permit" means a document issued by the Virginia Department of Agriculture and Consumer Services to authorize movement of regulated articles to a specified destination for scientific purposes.

"Virginia Pest Law" means that law set forth in Article 1 (§ 3.2-700 et seq.) of Chapter 7 of Title 3.2 of the Code of Virginia.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from VR115-04-02 § 1, eff. April 15, 1982; amended, eff. April 1, 1983; amended, Virginia Register Volume 1, Issue 8, eff. January 1, 1985; Volume 2, Issue 15, eff. May 28, 1986; Volume 3, Issue 5, eff. January 1, 1987; Volume 4, Issue 3, eff. January 1, 1988; Volume 5, Issue 6, eff. January 1, 1989; Volume 6, Issue 6, eff. January 1, 1990; Volume 7, Issue 6, eff. January 16, 1991; Volume 10, Issue 24, eff. February 13, 1992; Volume 10, Issue 24, eff. September 26, 1994; Volume 25, Issue 11, eff. March 4, 2009; Errata, 25:13 VA.R. 2565 March 2, 2009.

2VAC5-330-20. Regulated articles.

The following articles are regulated under the provisions of this quarantine, and shall not be moved into or within Virginia, except in compliance with the conditions prescribed in this quarantine:

1. Trees with roots, shrubs with roots, and persistent woody stems, except if greenhouse grown throughout the year.
2. Logs and pulpwood, except if moved to a mill operating under a compliance agreement.
3. Firewood.
4. Mobile homes and associated equipment.
5. Recreational vehicles and associated equipment, moving from hazardous recreational vehicle sites and the person in charge of the site has been notified.

6. Cut Christmas trees.

7. Any other products, articles (e.g., outdoor household articles), or means of conveyance, of any character whatsoever, when it is determined by an inspector that any life stage of gypsy moth is in proximity to such articles and the articles present a risk of artificial spread of gypsy moth infestations and the person in possession thereof has been so notified.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from VR115-04-02 § 2, eff. April 15, 1982; amended, eff. April 1, 1983; amended, Virginia Register Volume 1, Issue 8, eff. January 1, 1985; Volume 2, Issue 15, eff. May 28, 1986; Volume 3, Issue 5, eff. January 1, 1987; Volume 4, Issue 3, eff. January 1, 1988; Volume 5, Issue 6, eff. January 1, 1989; Volume 6, Issue 6, eff. January 1, 1990; Volume 7, Issue 6, eff. January 16, 1991; Volume 10, Issue 24, eff. February 13, 1992; Volume 10, Issue 24, eff. September 26, 1994.

2VAC5-330-30. Regulated areas.

A. Any area of another state or the District of Columbia, whether designated high risk or low risk, in which gypsy moth is known to occur and is so geographically described and regulated by the United States Department of Agriculture under the Gypsy Moth and Browntail Moth Quarantine No. 45, (7 USC §§ 1520dd, 150ee, 162) or under a state gypsy moth quarantine or other state legislation.

B. The following areas in Virginia:

1. The entire counties of: Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Bland, Botetourt, Brunswick, Buckingham, Campbell, Caroline, Charles City, Charlotte, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Gloucester, Goochland, Greene, Greenville, Halifax, Hanover, Henrico, Highland, Isle of Wight, James City, King George, King and Queen, King William, Lancaster, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg,

Middlesex, Montgomery, Nelson, New Kent, Northampton, Northumberland, Nottoway, Orange, Page, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Pulaski, Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Shenandoah, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warren, Westmoreland, and York.

2. The entire independent cities of: Alexandria, Bedford, Buena Vista, Charlottesville, Chesapeake, Clifton Forge, Colonial Heights, Covington, Danville, Emporia, Fairfax City, Falls Church, Franklin, Fredericksburg, Hampton, Harrisonburg, Hopewell, Lexington, Lynchburg, Manassas, Manassas Park, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Radford, Richmond, Roanoke, Salem, Staunton, Suffolk, Virginia Beach, Waynesboro, Williamsburg, and Winchester.

Statutory Authority

§§ 3.2-701 and 3.2-704 of the Code of Virginia.

Historical Notes

Derived from VR115-04-02 § 3, eff. April 15, 1982; amended, eff. April 1, 1983; amended, Virginia Register Volume 1, Issue 8, eff. January 1, 1985; Volume 2, Issue 15, eff. May 28, 1986; Volume 3, Issue 5, eff. January 1, 1987; Volume 4, Issue 3, eff. January 1, 1988; Volume 5, Issue 6, eff. January 1, 1989; Volume 6, Issue 6, eff. January 1, 1990; Volume 7, Issue 6, eff. January 16, 1991; Volume 10, Issue 24, eff. February 13, 1992; Volume 10, Issue 24, eff. September 26, 1994; Volume 17, Issue 8, eff. February 5, 2001; Volume 22, Issue 24, eff. September 7, 2006; Volume 23, Issue 20, eff. July 12, 2007; Volume 25, Issue 2, eff. October 15, 2008; Volume 25, Issue 15, eff. March 9, 2009.

2VAC5-330-40. Conditions governing movement of regulated articles into or within Virginia.

A regulated article may not be moved into or within the state from a regulated area as described in 2VAC5-330-30 unless a certificate or permit has been issued and attached to the regulated article in accordance with 2VAC5-330-50.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from VR115-04-02 § 4, eff. April 15, 1982; amended, eff. April 1, 1983; amended, Virginia Register Volume 1, Issue 8, eff. January 1, 1985; Volume 2, Issue 15, eff. May 28, 1986; Volume 3, Issue 5, eff. January 1, 1987; Volume 4, Issue 3, eff. January 1, 1988; Volume 5, Issue 6, eff. January 1, 1989; Volume 6, Issue 6, eff. January 1, 1990; Volume 7, Issue 6, eff. January 16, 1991; Volume 10, Issue 24, eff. February 13, 1992; Volume 10, Issue 24, eff. September 26, 1994.

2VAC5-330-50. Conditions governing the issuance of certificates and permits.

A. Certificates. Certificates may be issued by an authorized inspector for the movement of the regulated articles designated in 2VAC5-330-20 under any of the following conditions when:

1. In the judgment of the inspector, they have not been exposed to infestations;
2. They have been examined by the inspector and found to be free of gypsy moth;
3. They have been treated to destroy gypsy moth under the direction of the inspector and according to methods selected by him from administratively authorized procedures known to be effective under the conditions in which applied;
4. Grown, produced, manufactured, stored, or handled in such manner that, in the judgement of the inspector, gypsy moth would not be transmitted by movement of the article.

B. Permits. Permits may be issued by an authorized inspector for the movement of noncertified regulated articles to specified destinations under conditions specified for limited handling, use, processing, or treatment.

C. Compliance agreement. As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving regulated articles may be required to sign a compliance agreement. The agreement shall stipulate that safeguards will be maintained against the establishment and spread of infestation, and will comply with the conditions governing the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and

containers.

D. Use of certificates or permits with shipments. All regulated articles are required to have a certificate or permit attached when offered for movement. If a certificate or permit is attached to the invoice or waybill, the attachment of a certificate or limited permit to the regulated article will not be required. Certificates or permits attached to the invoice, waybill, or other shipping document, shall be given by the carrier to the consignee at the destination of the shipment, or to an inspector when requested.

E. Assembly of articles for inspection. Persons intending to move any regulated articles shall apply for inspection as far in advance as possible. They shall safeguard the articles from infestation. The articles shall be assembled at a place and in a manner designated by the inspector to facilitate inspection.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from VR115-04-02 § 5, eff. April 15, 1982; amended, eff. April 1, 1983; amended, Virginia Register Volume 1, Issue 8, eff. January 1, 1985; Volume 2, Issue 15, eff. May 28, 1986; Volume 3, Issue 5, eff. January 1, 1987; Volume 4, Issue 3, eff. January 1, 1988; Volume 5, Issue 6, eff. January 1, 1989; Volume 6, Issue 6, eff. January 1, 1990; Volume 7, Issue 6, eff. January 16, 1991; Volume 10, Issue 24, eff. February 13, 1992; Volume 10, Issue 24, eff. September 26, 1994.

2VAC5-330-60. Cancellation of certificates or permits.

Any certificate or permit which has been issued or authorized will be withdrawn by the inspector if he determines that the holder has not complied with conditions for their use or with any applicable compliance agreement.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from VR115-04-02 § 6, eff. April 15, 1982; amended, eff. April 1, 1983; amended, Virginia

Register Volume 1, Issue 8, eff. January 1, 1985; Volume 2, Issue 15, eff. May 28, 1986; Volume 3, Issue 5, eff. January 1, 1987; Volume 4, Issue 3, eff. January 1, 1988; Volume 5, Issue 6, eff. January 1, 1989; Volume 6, Issue 6, eff. January 1, 1990; Volume 7, Issue 6, eff. January 16, 1991; Volume 10, Issue 24, eff. February 13, 1992; Volume 10, Issue 24, eff. September 26, 1994.

2VAC5-330-70. Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and gypsy moths as provided in the Virginia Pest Law under which this quarantine is issued.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from VR115-04-02 § 7, eff. April 15, 1982; amended, eff. April 1, 1983; amended, Virginia Register Volume 1, Issue 8, eff. January 1, 1985; Volume 2, Issue 15, eff. May 28, 1986; Volume 3, Issue 5, eff. January 1, 1987; Volume 4, Issue 3, eff. January 1, 1988; Volume 5, Issue 6, eff. January 1, 1989; Volume 6, Issue 6, eff. January 1, 1990; Volume 7, Issue 6, eff. January 16, 1991; Volume 10, Issue 24, eff. February 13, 1992; Volume 10, Issue 24, eff. September 26, 1994.

2VAC5-330-80. Shipment for experimental or other scientific purposes.

Any living stage of gypsy moth may be moved intrastate only if such movement is made for scientific purposes under scientific permit from the Virginia Department of Agriculture and Consumer Services, and in accordance with any conditions which may be required in the permit. The permit shall be securely attached to the outside of the shipping container.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from VR115-04-02 § 8, eff. April 15, 1982; amended, eff. April 1, 1983; amended, Virginia

Register Volume 1, Issue 8, eff. January 1, 1985; Volume 2, Issue 15, eff. May 28, 1986; Volume 3, Issue 5, eff. January 1, 1987; Volume 4, Issue 3, eff. January 1, 1988; Volume 5, Issue 6, eff. January 1, 1989; Volume 6, Issue 6, eff. January 1, 1990; Volume 7, Issue 6, eff. January 16, 1991; Volume 10, Issue 24, eff. February 13, 1992; Volume 10, Issue 24, eff. September 26, 1994.

2VAC5-330-90. Nonliability of the department.

The Virginia Department of Agriculture and Consumer Services shall not be liable for any costs incident to inspections required under the provisions of the quarantine and chapters, other than for the services of the inspector.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from VR115-04-02 § 9, eff. April 15, 1982; amended, eff. April 1, 1983; amended, Virginia Register Volume 1, Issue 8, eff. January 1, 1985; Volume 2, Issue 15, eff. May 28, 1986; Volume 3, Issue 5, eff. January 1, 1987; Volume 4, Issue 3, eff. January 1, 1988; Volume 5, Issue 6, eff. January 1, 1989; Volume 6, Issue 6, eff. January 1, 1990; Volume 7, Issue 6, eff. January 16, 1991; Volume 10, Issue 24, eff. February 13, 1992; Volume 10, Issue 24, eff. September 26, 1994.
